

21.11.2022
rc/ct.no.10
Item No.46

WPA No. 24202 of 2022

Mr. Mir Anowar ...for the petitioner

Mr. Chandi Charan De
Mrs. Chandana Ghosh ...for the State

Mr. Sanjoy Saha ...for the WBMTDC

Affidavit of service filed in Court today is taken on record.

The petitioner was granted long-term mining lease for a period of 5 years vide a deed of lease executed and registered on 18.11.2013. Since there was some delay in handing over possession of the leasehold plot in favour of the petitioner, the said lease was extended till 30.11.2022. The petitioner was unable to continue with mining operation for considerable period of time due to Covid-19 pandemic and has prayed for extension of the period of lease on the said ground.

Learned counsel for the petitioner has taken this Court to clause (5) of Part IX of the deed of lease which indicates that if through force majeure the fulfillment by the lessee of any of the terms and conditions of the lease be delayed, the period of such delay shall be added to the period fixed by this lease.

The petitioner submitted a representation in this regard before the concerned authority on 26.09.2022

which is yet to be considered. The petitioner prays for a direction upon the concerned authority to consider the said representation at the earliest.

It is submitted on behalf of the State respondents that the 4th respondent be directed to consider the representation within a stipulated period of time.

In view of the above, the writ petition is disposed of directing the 4th respondent to consider and dispose of the representation submitted by the petitioner dated 26.09.2022 within a period of six weeks from the date of communication of this order after taking into consideration the clause 5 Part IX of the deed of lease and after affording reasonable opportunity of hearing to all the interested parties including the petitioner, in accordance with law.

The decision taken by the 4th respondent shall be communicated to the petitioner within a week thereof.

With the above directions, W.P.A. 24202 of 2022 is disposed of. However, there shall be no order as to costs.

Since no affidavit is invited, the allegations contained in the petition are deemed not to be admitted.

Urgent certified website copy of this order, if applied for, be supplied to the parties upon compliance with all requisite formalities.

(Suvra Ghosh,J)